



ORIGINAL

EX PARTE OR LATE FILED

ILLINOIS COMMERCE COMMISSION**Office of General Counsel**

September 30, 1999

VIA AIRNET EXPRESS

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S. W. Counter TWA 325
Washington, DC 20554

RECEIVED
OCT 01 1999
FCC MAIL ROOM

9698

In Re: Petition of the Illinois Commerce Commission for Expedited Temporary Waiver of
47 C.F.R. Section 52.19(c)(ii), NSD File No. L-99-65.

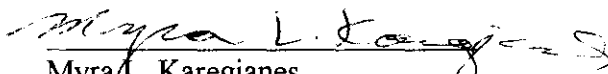
Dear Office of the Secretary:

Enclosed please find the Reply Comments of the Illinois Commerce Commission. I have included an original and four copies.

I would appreciate acknowledging receipt of the filing by returning a duplicate time stamped copy of this letter in the enclosed self addressed, stamped envelope.

Thank you for your attention to this matter.

Sincerely,


Myra L. Karegianes
General Counsel

MLK/ed
Enclosures

No. of Copies rec'd 0+4
List ABCDE

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
OCT 01 1999
FCC MAIL ROOM

In the Matter of)

Petition of the Illinois Commerce Commission)
for Expedited Temporary Waiver of 47 C.F.R.)
Section 52.19(c)(3)(ii))

NSD File No. L-99-65

Implementation of the Local Competition)
Provisions of the Telecommunications Act)
of 1996)

CC Docket No. 96-98 ✓

REPLY COMMENTS OF THE ILLINOIS COMMERCE COMMISSION

The Illinois Commerce Commission ("ICC") respectfully replies to comments filed in response to its Petition for Expedited Temporary Waiver of 47 C.F.R. Section 52.19(c)(3)(ii) ("Petition") filed with the Federal Communications Commission ("Commission") on August 10, 1999.¹

INTRODUCTION

In its Petition, the ICC established that the circumstances surrounding area code exhaust in the Chicago metropolitan area justify a temporary waiver of the Commission's 10-digit dialing requirement for the 847, 312, 773, 630, and 708 NPAs. The ICC explained that the Chicago metropolitan area currently is served by five area codes that are all projected to exhaust within an

¹ To counsel for the ICC's knowledge, eight (8) parties filed comments: Ameritech, SBC Communications, Inc. ("SBC"), United States Telephone Association ("USTA"), AT&T Corp. ("AT&T"), Association for Local Telecommunications Services ("ALTS"), MCI WorldCom, Inc. ("MCI"), Sprint Corporation ("Sprint"), and Winstar Communications, Inc. ("Winstar"). Despite the names of two ICC attorneys clearly identified on the signature page of the Petition, MCI served its comments on each of the ICC Commissioners and SBC served its comments on an ICC staff member only. Winstar, however, did not serve its comments on anyone at the ICC.

18-month period, beginning in the fourth quarter of 1999. (Petition, at 2). In response, the ICC ordered that all-services overlays be introduced in each of the five area codes upon exhaust. (Id. at 2-4). When an area code overlay is used to provide area code relief, § 52.19(c)(3)(ii) of the Commission's rules mandates 10-digit dialing for every telephone call in the geographic area covered by the area code overlay. Consequently, all seven-digit dialing of telephone numbers in the 847, 312, 630, 708 and 773 must be replaced by 10-digit dialing. Customers with telephone numbers in the 847, 312, 773, 630, and 708 NPAs and the newly assigned overlay area codes will be required, as a direct result of the Commission's 10-digit dialing requirement, to dial 10 digits for every telephone call made within an overlay area code and 11 digits (1 + 10 digit dialing) between area codes. (Id. at 4-5).

The ICC established, however, that given the unique circumstances surrounding area code exhaust in the Chicago metropolitan area, implementing the Commission's 10-digit dialing requirement in piecemeal fashion will lead to a number of negative consequences that justify a temporary waiver of the Commission's rule until the last of the four newly assigned overlay codes is activated. The ICC first explained that implementing the Commission's 10-digit dialing requirement as each area code exhausts will result in dialing inequities between customers in neighboring Chicago metropolitan area codes. (Id. at 5). The 630 NPA is projected to exhaust first and, as a result, only those customers in the 630 NPA (and the newly assigned overlay area code) will be required to dial 10 or 11 digits for all calls. Customers in the remaining four area codes in the Chicago metropolitan area will retain the ability to dial seven digits to reach other customers in the same area code. This dialing inequity between customers will persist until the last of the four overlay area codes is introduced in the Chicago metropolitan area.

In addition to dialing inequities between customers, implementing 10-digit dialing in piecemeal fashion will create 10- or 11-digit dialing “islands” within the Chicago metropolitan area. (*Id.*). Again using the 630 NPA as an example, customers in the geographic area comprising the 630 NPA and the new overlay area code will be required to dial 10 or 11 digits for all calls. That is, customers in the 630 NPA will be required to dial 10 digits to reach other customers in the 630 NPA and customers in the newly assigned overlay area code will be required to dial 10 digits to reach other customers in the newly assigned overlay area code. In contrast, customers in the geographic areas comprising the 847, 773, 312, and 708 NPAs will retain the ability to dial seven digits to reach other customers in the same area code. Like the dialing inequity between customers in neighboring Chicago metropolitan area codes, the 10- or 11-digit dialing “islands” will exist until the last of the four overlay area codes is introduced in the Chicago metropolitan area.

The ICC also established that granting Illinois a temporary waiver will minimize disruption and customer confusion that is certain to result from implementing the Commission’s 10-digit dialing requirement in piecemeal fashion, as each of the five area codes in the Chicago metropolitan area exhaust in a relatively short time period. (*Id.*). By granting a temporary waiver until the last of the four newly assigned area code overlays is activated, the Commission will allow the ICC to implement a common dialing plan for all area codes in the Chicago metropolitan area, thus eliminating any confusion as to when to dial seven digits and when to dial 10 or 11 digits. (*Id.* at 5-6).

Furthermore, the ICC explained that a temporary waiver will allow the ICC and carriers to develop and administer a comprehensive education program informing customers of the impending area code overlays and the corresponding new dialing requirements throughout the

Chicago metropolitan area. (Id.). Finally, the ICC established that granting its request for a temporary waiver is fully consistent with the Commission's past action involving similar circumstances. (Id. at 6-7). The ICC explained, given that five area codes are projected to exhaust within an 18-month period, the situation in Illinois presents an even greater potential for disruption an customer confusion than the situation presented in New York. (Id. at 7).

DISCUSSION

Several carriers and ALTS oppose the ICC's request for a temporary waiver of the Commission's 10-digit dialing rule.² Essentially, their opposition is two-fold: 1) the temporary waiver will threaten competition and result in anticompetitive effects for competitive local exchange and wireless carriers, and 2) the temporary waiver will only increase customer confusion and inconvenience. Their arguments are without merit.

I. Granting a Temporary Waiver of the 10-Digit Dialing Requirement Will Not Adversely Affect Competition in the Chicago Metropolitan Area.

The ICC recognizes potential competitive concerns associated with area code overlays. See, e.g., NPA 847 Order at 34.³ It also recognizes the important benefits of seven-digit dialing for customers, a fact which the parties opposing the temporary waiver request completely ignore or merely pay it lip service.⁴ Importantly, however, none of the carrier opponents or the ALTS has identified any specific competitive concerns particular to the Chicago metropolitan area, that

² Sprint does not oppose the ICC's request for a temporary waiver *per se*, so long as the waiver extends no longer than April 1, 2000. (Sprint Comments, at 1).

³ Petition for Approval of an NPA Relief Plan for the 847 NPA, ICC Docket Nos. 97-0192/97-0211 (cons.) (May 11, 1998) ("NPA 847 Order")

⁴ MCI WorldCom, at least, has previously recognized the benefits to customers of retaining the ability to dial seven digits for intra-NPA calls, albeit not in its comments in this proceeding. (See, e.g., Petition,

may result from allowing the ICC to implement the Commission's 10-digit dialing requirement uniformly. In fact, their general claims of adverse competitive effects are contradicted by the amount of numbering resources already held by competitive carriers and the favorable competitive environment present in the Chicago metropolitan area.

As the Commission has recognized, Illinois has been at the forefront of facilitating competitive entry to local markets and developing number conservation measures, particularly in developing and implementing number pooling as a number conservation measure.⁵ The existence of permanent number portability, number pooling and other number conservation measures in the Chicago metropolitan area mitigate the competitive concerns associated with area code relief identified by the Commission. Permanent number portability is in place and working in the Chicago metropolitan area. In addition, the ICC has directed that number conservation measures, including thousand block number pooling be implemented and activated in all five Chicago metropolitan area codes by February of 2000. (Petition, at 4; June 30, Order, at 13⁶; NPA 847 Order at 21, 26). Currently, number pooling is operative in the 847, 630 and 312 NPAs.⁷ Hence, by the time each area code exhausts its supply of assignable NXX codes,

Exhibit 3 (Lockheed Martin Petition for Approval of NPA Relief Plans for the 312, 630, 708 and 773 NPAs, Exhibit A (Meeting Minutes of Oct. 12, 1998, at 4-5))).

⁵ See In re Petition for Declaratory Ruling and request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, CC Docket 96-98, FCC 98-224 (rel. Sep. 28, 1998) at ¶ 30.

⁶ Petition for Approval of NPA Relief Plans for the 312, 630, 708 & 773 NPAs, Interim Order, ICC Docket No. 98-0847 (June 30, 1999) ("June 30 Order").

⁷ In fact, the success of the number pooling trial in the 847 NPA has allowed competing carriers superior access to numbers in the 847 NPA. See In re Numbering Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 99-122 (rel. June 2, 1999) at ¶ 28 n.42; cf. AT&T Comments, at 3 (discussing access to numbers in existing area codes)). Expanding number pooling to the other Chicago metropolitan area codes should, at a minimum, ensure similar positive results. Although wireless carriers currently do not participate in number pooling, number pooling among wireline carriers, along with additional number conservation measures, has preserved full NXX codes for wireless carriers. See In re Cellular Telecommunications Industry Association's Petition for Forbearance from

number pooling will have been implemented and activated in all five Chicago metropolitan area codes. Accordingly, all of these measures facilitate competitive entry into the Chicago metropolitan telecommunications market for all carriers by assuring numbering resources are made available in an efficient and timely manner and mitigate any potential anticompetitive impacts that may result from implementing the Commission's 10-digit dialing requirement uniformly.

Moreover, although acknowledging the importance and value of the states' role in area code relief and lauding their efforts in implementing number conservation measures, Winstar and ALTS nonetheless claim that granting the ICC's temporary waiver request will eviscerate the 10-digit dialing requirement and is inconsistent with the Commission's goals for numbering resource optimization. (Winstar Comments, at 8-10; ALTS Comments, at 2-3). On the contrary, the ICC's temporary waiver request is based on particular and special circumstances existing in Illinois, and granting the waiver in this case will not weaken the 10-digit dialing rule. Nor, plainly, will granting the ICC's particular request undermine the Commission's authority over numbering or impede its ability to implement a national numbering policy. Moreover, granting the ICC's request will not impede the Commission's goals in the Numbering Resource Optimization proceeding or diminish the value of 10-digit dialing as an optimization resource, especially given that the Commission is reexamining the 10-digit dialing requirement in that proceeding. See In re Numbering Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 99-122 (rel. June 2, 1999) at ¶ 252.

Commercial Mobile Radio Services Number Portability Obligations, FCC 99-19 WT Docket No. 98-229 (released Feb. 9, 1999) (forbearing from imposing service provider local number portability requirements on wireless carriers until November 24, 2002).

II. Granting a Temporary Waiver Will Minimize Disruption and Customer Confusion.

Several carriers contend that granting the temporary waiver will only increase consumer confusion and inconvenience. They are mistaken. In fact, a temporary waiver will minimize the disruption and customer confusion that will result from implementing the Commission's 10-digit dialing requirement in the Chicago metropolitan area one area code at a time. To be sure, between area codes, customers in the Chicago metropolitan area, like customers elsewhere, must dial ten or eleven digits to reach other customers. But the important point Winstar and other parties fail to appreciate is that within an area code customers know through experience, and have come to expect, that to reach other customers they need only dial seven digits.⁸ (See, e.g., Winstar comments, at 3-4). With a temporary waiver, however, customers in the Chicago metropolitan area would not experience disruption and confusion because existing dialing patterns (10 or 11 digits for calls between area codes; 7-digits for calls within area codes) would not be changed until the last of the four newly assigned overlay area codes is activated.

Sprint, AT&T, MCI and ALTS suggest the ICC require mandatory 10-digit dialing in all area codes throughout the Chicago metropolitan area in conjunction with the first overlay area code. (Sprint Comments, at 6; AT&T Comments, at 5; MCI Comments, at 4; ALTS Comments, at 7; see also Winstar Comments at 4). This suggestion, however, fails to acknowledge valid competing concerns, viz., the immediate disruption and inconvenience to all customers in the Chicago metropolitan area and the loss of seven-digit dialing in NPAs not yet subject to overlay area codes. Their suggestion would prematurely and unnecessarily disrupt existing dialing

⁸ Moreover, Winstar's unsupported, tacit contention that Chicago metropolitan area customers are indifferent to 10-digit dialing is belied by customers' strong interest in retaining, where possible, the ability to dial seven digits. (Winstar Comments, at 3-4). Apparently, for many customers, a significant number of calls made are still within the customers' own area code.

patterns in unaffected area codes without any corresponding benefits. Moreover, given the failure of the parties opposing the Petition to identify specific competitive harms in the Chicago metropolitan area that would result from the temporary waiver, there appears to be no compelling reason to implement 10-digit dialing throughout the Chicago metropolitan area in conjunction with the first overlay code. In fact, the ICC has demonstrated in its Petition at least four reasons militating against taking such action.

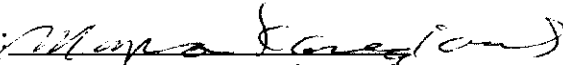
ALTS and Sprint further contend that number conservation measures implemented in the 630, 312, 773, and 708 NPAs may extend the projected exhaust dates of those NPAs, thereby enlarging the 18-month waiver period. (ALTS Comments, at 5-6; Sprint Comments, at 4-5). The ICC notes, however, that just as number conservation measures may forestall NXX code exhaust, entry of new competitors (or increased competition) into the Chicago metropolitan area may increase the demand for NXX codes (or thousands blocks), thus hastening NXX code exhaust. As a consequence, these parties present no reliable or persuasive evidence one way or the other that number pooling would materially enlarge the temporary waiver period to their detriment. Furthermore, the increased availability of numbering resources to competitive carriers made possible by number pooling and the lack of identifiable competitive harms in the Chicago metropolitan area militate in favor of delaying 10-digit dialing until the last of the four newly assigned overlay area codes is activated even assuming a slight enlargement of the temporary waiver period.

CONCLUSION

For the reasons stated in its Petition and reply comments, the ICC respectfully requests that the Commission grant a temporary waiver of its 10-digit dialing requirement in 47 C.F.R. 52.19(c)(3)(ii) for the 847, 312, 773, 630 and 708 NPAs in the Chicago metropolitan area until the last of the four newly assigned area code overlays is activated.

September 30, 1999

Respectfully submitted,

By: 
MYRA L. KAREGIANES
General Counsel
THOMAS R. STANTON
Illinois Commerce Commission
160 North LaSalle St., Suite C-800
Chicago, IL 60601
(312) 793-2877

CERTIFICATE OF SERVICE

I, Thomas R. Stanton, certify that I served a copy of the **Reply Comments of the Illinois Commerce Commission** upon the parties on the attached service list in this proceeding by U.S. mail before 5:00 p.m. on Thursday, September 30, 1999.

A handwritten signature in black ink, appearing to read 'TR Stanton', with a long horizontal line extending to the right.

THOMAS R. STANTON
Special Assistant Attorney General
Illinois Commerce Commission
160 North LaSalle St., Suite C-800
Chicago, IL 60601
(312) 793-2877

Counsel for the Illinois Commerce Commission

SERVICE LIST
FEDERAL COMMUNICATIONS COMMISSION
Case File No.: NSD - L -99-65

09/30/99 TRS

Jared Carlson
Federal Communications Commission
Network Services Division - 6th Floor
445 Twelfth Street, S.W.
Washington, DC 20554

Danny E. Adams
Rebekah J. Kinnett
KELLEY, DRYE & WARREN, L.L.P.
1200 19th Street, N.W., Suite 500
Washington, DC 20036

Henry G. Hultquist
MCI WORLDCOM, INC.
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006

Mark C. Rosenblum, Roy E. Hoffinger
& James H. Bolin, Jr.
AT&T CORPORATION
295 North Maple Avenue, Room 1130M1
Basking Ridge, NJ 07920

Jonathan M. Chambers
SPRINT CORPORATION
1801 K Street, N.W.
Suite M112
Washington, DC 20006

Emily M. Williams
THE ASSOCIATION FOR LOCAL
TELECOMMUNICATIONS SERVICES (ALTS)
888 17th Street, N.W.
Suite 900
Washington, DC 20006

Lawrence E. Sarjeant, Linda L. Kent, Keith Townsend
John W. Hunter & Julie L. Rones
UNITED STATES TELEPHONE ASSOCIATION
1401 H. Street, N.W.
Suite 600
Washington, DC 20005

Larry A. Peck
2000 West Ameritech Center Drive
Room 4H86
Hoffman Estates, IL 60196-1025

Edward A. Butts
200 North Dearborn Street
Suite 4206
Chicago, IL 60601

Alfred G. Richter, Jr., Roger K. Toppins
& Hope Thurrott
SBC Communications, Inc.
One Bell Plaza
Room 3023
Dallas, TX 75202

Al McCloud
Network Services Division - Common Carrier Bureau
Federal Communications Commission
Portal II
445 12th Street, N.W., Room 6A-320
Washington, DC 20554